

Remarks

Now pending are claims 1 to 17, of which claims 1, 16, and 17 are independent. The claims have been generally amended to conform them to US practice (e.g, starting dependent claims with "The" instead of "A" and also reducing verbiage in the preamble). The independent claims were also amended to insert subparagraphing to assist the reader. These changes are simply cosmetic changes, were not made to overcome any prior art, nor do they narrow the scope of any claim.

Claim 17 is amended to become a method claim that essentially makes the product of claim 16 by the process described. The claim is not a product by process claim and recites pure method steps. As claim 17 was previously substantively examined and that the only amendment include a positive step recitation, restriction is not necessary as no undue hardship is placed on the examiner.

The independent claims were amended to change the ratio expression from using slashes "/" to a colon ":" to avoid any confusion regarding whether numerals are divided. Again, this is simply cosmetic. The independent claims were also amended to include a particle size limitation. Old claim 3 included this limitation and was rejected strictly on obviousness grounds. Those grounds do not apply now.

As the inventors identified, the problem associated with particle size related to this invention involves the expansion and contraction due to charge/discharge cycling at ambient temperatures (see Spec. pg. 3 and spec. pg. 9). That is, the particle size of the material has nothing to do with the ability for the wound electrode to be rolled, unkinked, unbent, sloughing off electrode material off the electrode, etc.; characteristics related to how the electrode is manufactured and the "ease" of which it can be placed in the can. The solution this invention is directed to involves using a small particle size in the charge/discharge cycling.

On the other hand, the express problem with Fujimoto involves the using particle size to reduce manufacturing defects associated with rolling, kinking, bending, sloughing off material, etc. (Fujimoto, col. 1, lines 40-65). The solution Fujimoto proposes is to vary the particle size on the two sides of the electrode so that it can be folded easier (e.g, the underside has “less” material so that it can fold easier). Accordingly, the problem to be solved of Fujimoto is different from the problem of the current invention. The solution Fujimoto proposes is different from the solution posited by the current invention. When the problems to be solved and/or the solutions proposed are different, this is strong evidence of nonobviousness. *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617(Fed. Cir. 1999)(nonobviousness “from the nature of the problem to be solved”).

In this particular case, when confronted with the problem of suppressing charge/discharge cycling expansion and contraction, the ordinary artisan would not look to Fujimoto’s particle size discussion because that discussion simply does not provide any teaching that Fujimoto’s particle sizes are even relevant to expansion/contraction cycling. Nothing in Fujimoto’s particle size discussion comes close to discussing the problem of the current invention. Accordingly, the Examiner may not simply pluck the Fujimoto particle size and combine it with the WO reference without any motivation or suggestion to do so. The applicants request withdrawal of the obviousness rejection and allowance of the claims.



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Conclusion

The applicants respectfully request withdrawal of the rejections and believe that the claims as presented represent allowable subject matter. But if the Examiner desires, the applicant is ready for a telephone interview to expedite prosecution. As always, the Examiner is free to call the undersigned at 312-876-2622. The Examiner's attention is also drawn to the new correspondence address.

Respectfully submitted,

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